

REMARKS

The drawings are objected on the basis that they are allegedly informal. Further, claims 1-49 stand rejected under 35 U.S.C. § 103(a) as being allegedly obvious over Ng (U.S. Patent No. 6,405,175) (hereinafter “Ng”).

In response to the above-identified Office Action, Applicants request amendment to the application and seek reconsideration thereof. In this Response, claims 1-8, 13, 15, 16, 19, 21-23, 27, 30, 35, 40-44, 46, 48, and 49 have been amended to correct clear typographical errors. No claims have been cancelled, and no claims have been added. Accordingly, Claims 1-49 are still pending in this application. Applicants have also amended certain portions of the specification by the above amendment to correct clear typographical errors. No new matter has been added by these amendments. Applicants respectfully request reconsideration of the claims in view of the comments presented below.

I. Objection to Drawings

When filing their application, Applicants submitted drawings which they believed constituted formal drawings. Those drawings stand objected on the basis that they are allegedly informal. However, the drawings were filed as final and the present Office Action does not specify the corrections which need to be made in order for the drawings to be accepted as formal drawings.

Applicants respectfully request reconsideration of the informality objection to the submitted drawings. Alternatively, Applicants respectfully request that the USPTO specify with particularity the alleged informalities of the drawings, so that corrected drawings may be submitted for approval.

II. **Claims Rejected Under 35 U.S.C. § 103(a)**

A. **Rejections**

Claims 1-49 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Ng. Applicants respectfully traverse the rejections.

The Office asserts that the preamble and elements a, c, d, and e of claim 1 are specifically taught in Ng. Applicants respectfully traverse this assertion. None of the elements of claim 1 are anticipated by or obvious in view of Ng.

In a nutshell, Ng is directed toward collecting information regarding cheapest web prices of goods. A reward is given to a person that discovers a cheaper web price. A subsequent user's viewing of that information results in a further reward. In sharp contrast, the present invention is for an e-mail based referral system which is personalized and relies on the user's personal relationship with the referralee. The only relationship between Ng and the present invention is that they both relate to e-commerce. Looking at a web site is NOT the same as receiving an email.

For independent claim 1, it is stated that the "whole document" of Ng shows the limitations of claim 1. **The Examiner admits that Ng lacks an explicit recitation of a limitation of claim 1.** Namely the admitted missing limitation is "offering a potential reward to a first party in exchange for promotional assistance of the first party, the promotional assistance comprising assistance in a forwarding of a first e-mail to a second party, the first e-mail message comprising a personalized referral for the marketable entity, and a first set of data comprising a first serial number and a first URL link." The Action then states that the "whole document" of Ng suggests the aforementioned limitation of claim 1, claiming that "[i]t would have been obvious to a person of ordinary skill in the art the time of the invention" that the "whole document" of Ng "would have selected in accordance with" the limitation, since "such selection would have provided means for '*computer-assisted electronic commerce (e-commerce) . . . reward programs. . .*'" citing Ng, col. 1, ll. 5-15 (italics in Office Action).

As to claims 2-45, the Action states that, although Ng lacks an explicit recitation of the elements and limitations found in claims 2-45, the “whole document” of Ng suggests the same. The Action further takes Official Notice that “both the concepts and the advantages of the elements and limitations of claims 2-45 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means for ‘*computer-assisted electronic commerce (e-commerce) . . . rewards programs . . .*’ (see Ng (col. 1, ll. 5, 15))” (italics in Office Action). If there are a multitude of references teaching an e-mail based referral system, surely one such reference could have been cited.

Independent claim 46 stands rejected on the basis that the “whole document” of Ng allegedly shows the elements and limitations of claim 1. The Action admits that Ng lacks the explicit recitation of a limitation found in claim 46, namely that of “offering a reward to a first party to assist in recommending a second marketable entity substantially similar to the first marketable entity to a second party wherein the recommendation results in a transaction.” However, the Action then states that the “whole document” of Ng suggests this limitation. The Action claims that at the time of the invention, it would have been obvious to one of ordinary skill in the art that the “whole document” of Ng “would have been selected in accordance with ‘offering a reward to a first party to assist in recommending a second marketable entity substantially similar to the first marketable entity to a second party wherein the recommendation results in a transaction. . . ’ elements and limitations of claim 1, because such selection would have provided means for ‘*computer-assisted electronic commerce (e-commerce) . . . rewards programs . . .*’ (see Ng (col. 1, ll. 5-15)).”

Finally, as to claims 47-49, the Action states that Ng “shows the method of claim 43 and subsequent claims depending from claim 43.” The Action further states that the “whole document” of Ng “shows elements that suggest the elements and limitations of claims 47-49” and that although “Ng lacks an explicit recitation of the elements and limitations of claims 47-49,”

Ng suggests the same. Official Notice is taken that “both the concepts and the advantages of the elements and limitations of claims 47-49 were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and the advantages would have provided means for ‘*computer-assisted electronic commerce (e-commerce) . . . rewards programs . . .*’ (see Ng, (col. 1, ll. 5-15).” (italics in Office Action)

Applicants respectfully traverse these rejections of claims 1-49 in view of the comments below.

B. No *Prima Facie* Case of Obviousness Established

The Office bears the burden of factually supporting a *prima facie* case of obviousness. MPEP §2142. “To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985), as quoted in MPEP §706.02(j). Furthermore, impermissible hindsight based upon the applicants’ disclosure must be avoided by the examiner while reaching a proper determination under 35 U.S.C. §103. MPEP §2142.

In response to the USPTO’s rejections of claims 1-49, the Applicants respectfully submit that the USPTO has failed to meet the three criteria necessary for establishing a *prima facie* case of obviousness, namely that:

1. “the prior art reference must teach or suggest all the claim limitations”;
2. “there must be some suggestion or motivation, either in the reference or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings”; and
3. “there must be a reasonable expectation of success.”

MPEP §706.02(j).

1. The Ng Reference Does Not Teach or Suggest All Claim Limitations

Applicants respectfully submit that the USPTO has failed to establish the first criterion for supporting a *prima facie* case of obviousness, insofar that the Ng reference cited by the USPTO does not teach or suggest all claim limitations found in the Applicants' claims 1-49.

First, Applicants direct the Examiner's attention to the substantial differences in the disclosures of Ng and the claimed invention. Ng teaches a web site that "allows users to search a product/price database. The database contains product and price information for a wide variety of products. . . . Information in the database is collected and corrected by submitting users who are rewarded for product submissions. A submitting user inputs data on new product, price, supplier or rating information using an online form. . . . The submitting user is rewarded for submitting product and price information. When other consumer-users search the database and find the product, the submitting user is again rewarded. When these other consumer-users follow a link to the supplier's web page for that product, the submitting user is further rewarded. Thus, future rewards depend on the number of consumer-users viewing the information submitted. Higher rewards are granted for more popular products." (Ng, ABSTRACT).

In contrast, the Applicants' claimed invention teaches a method of marketing used by a provider, which depends on personalized referrals of the provider's marketable entity (such as a good or service), sent through internet email. The referral email is accompanied by a first set of data that includes a first URL link. The first URL link must correspond to a web site managed by the provider, and the web site allows for customers to purchase the marketable entity. The first set of data contained in the referral email must be correlated to a first set of database data, located in a database controlled by the provider. The method further requires the offering of a potential reward to a first party, if the first party provides promotional assistance of marketing the marketable entity described in the referral email, by the first party forwarding the referral email to a second party. The provider can allow for the referral email to include a token in the form of an icon accompanying the email, so that when the second party receives the referral email, based on the provider's options and choice, the second party may also receive a potential reward based

on forwarding the email to another party, so long as the token contained in the referral email received and forwarded by the second party is recognized by the provider's data base.

In contrast to Ng, the claimed invention does not provide rewards to internet users who report the lowest prices for products on the internet, nor does it provide rewards based on other internet users viewing the web page showing the lowest price for a certain product. Instead, the claimed invention provides potential rewards based on personalized referrals through email, and those potential rewards are within the provider's discretion. The provider can limit the number of times a referral email can be forwarded and thus limit the number of rewards for referrals for any given party. The claimed invention does not address the problem of finding the lowest price on certain products. Instead, the claimed invention addresses the problem of marketing a product through personalized referral emails in a method that is secure from hacking, tampering, and abuse, with the help of tokens accompanying the emails which must correlate with the information held in the provider's database.

Regarding independent claim 1, the Examiner states that the "whole document" of Ng "shows the elements and limitations of claim1." However, the Examiner admits there is no explicit recitation in Ng of the element of claim 1 of "offering a potential reward to a first party in exchange for promotional assistance of the first party, the promotional assistance comprising assistance in a forwarding of a first e-mail message to a second party, the first e-mail message comprising a personalized referral for the marketable entity, and a first set of data comprising a first serial number and a first URL link." Moreover, the Applicants assert that the other elements of claim 1 are also not present in Ng.

The Rules require that it is important "to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply." MPEP §706.02(j). When a prior art reference describes an invention other than the Applicants' claimed invention, "the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim

specified.” 37 C.F.R. §1.104(c)(2).

Applicants respectfully submit that the basis of the rejection as to claim 1 is not properly communicated, nor has the particular part of Ng been designated for the rejection as to claim 1, insofar that the rejection relies upon the “whole document” of Ng to show the elements and limitations of claim 1, and that the “whole document” of Ng suggests the aforementioned element of claim 1 of “offering a potential reward to a first party in exchange for promotional assistance of the first party, the promotional assistance comprising assistance in a forwarding of a first e-mail message to a second party, the first e-mail message comprising a personalized referral for the marketable entity, and a first set of data comprising a first serial number and a first URL link.”

Applicants are unable to discern any disclosure whatsoever in the Ng reference of “offering a potential reward to a first party in exchange for promotional assistance of the first party, the promotional assistance comprising assistance in a forwarding of a first e-mail message to a second party, the first e-mail message comprising a personalized referral for the marketable entity, and a first set of data comprising a first serial number and a first URL link.” Claim 1, ll. 4-8. Applicants request the USPTO to identify where such teachings are believed to be present, by designating the particular part(s) in Ng as mandated by 37 C.F.R. §1.104(c)(2).

Analogous arguments can also be made as to claims 2-45, independent claim 46, and claims 47-49. As to claims 2-45, the USPTO states that the “whole document” of Ng suggests the elements and limitations of claims 2-45, although the USPTO also admits that Ng lacks an explicit recitation of the elements and limitations of claims 2-45. Applicants respectfully submit that the USPTO should properly communicate the portions of the elements and limitations of claims 2-45 which the USPTO relies upon for its rejections. Furthermore, Applicants are unable to discern any disclosure whatsoever in the Ng reference of the elements and limitations found in Applicants’ claims 2-45. Applicants request the USPTO identify with particularity where such teachings are believed to be present, by designating the particular part(s) in Ng as mandated by

37 C.F.R. §1.104(c)(2).

Applicants respectfully submit that since Ng does not teach or suggest all (or any) of the claim limitations of independent claim 1, independent claim 1 is nonobvious under 35 U.S.C. §103. Accordingly, Applicants respectfully submit that the rejection of independent claim 1 be withdrawn. Further, Applicants respectfully submit that inasmuch as claims 2-45 are dependent on claim 1 and claim 1 is an allowable base claim, claims 2-45 are patentable as dependent on a patentable independent claim. MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Accordingly, Applicants submit that the rejection of claims 2-45 should also be withdrawn.

As to independent claim 46, the USPTO claims that the “whole document” of Ng shows the elements and limitations of claim 1. Applicants assume that the USPTO made a typographical error, and that the USPTO meant to say that the “whole document” of Ng shows the elements and limitations of claim 46, not claim 1. The USPTO admits that Ng lacks an explicit recitation of the element in claim 46 requiring the “offering a reward to a first party to assist in recommending a second marketable entity substantially similar to the first marketable entity to a second party wherein the recommendation results in a transaction,” but then the USPTO claims that the “whole document” of Ng suggests the same. Applicants are unable to discern any disclosure whatsoever in the Ng reference of “offering a reward to a first party to assist in recommending a second marketable entity substantially similar to the first marketable entity to a second party wherein the recommendation results in a transaction.” Claim 46, ll. 4-6. Applicants request the USPTO to identify where such teachings are believed to be present, by designating the particular part(s) in Ng as mandated by 37 C.F.R. §1.104(c)(2).

Applicants respectfully submit that since Ng does not teach or suggest all the claim limitations of independent claim 46, independent claim 46 is nonobvious under 35 U.S.C. §103. Accordingly, Applicants submit that the rejection of independent claim 46 should be withdrawn.

For claims 47-49, the USPTO claims that Ng “shows the method of claim 43 and

subsequent claims depending from claim 43,” yet the USPTO provides no convincing line of reasoning or information to indicate the designated portion of Ng which shows the method of claim 43. Further, the USPTO states that the “whole document” of Ng “shows elements that suggest the elements and limitations of claims 47-49.” Although the USPTO admits that “Ng lacks an explicit recitation of the elements and limitations of claims 47-49,” the USPTO claims that Ng suggests the same. Applicants respectfully submit that the USPTO should properly communicate the portions of the elements and limitations of claims 47-49 which the USPTO relies upon for its rejections, given that 35 U.S.C. §132 requires that the USPTO must set forth reasons for a rejection. Furthermore, Applicants are unable to discern any disclosure whatsoever in the Ng reference of the elements and limitations found in Applicants’ claims 47-49.

Applicants request the USPTO to identify where such teachings are believed to be present, by designating the particular part(s) in Ng as mandated by 37 C.F.R. §1.104(c)(2).

Applicants respectfully submit that inasmuch as claims 47-49 are dependent on claim 43 and claim 43 is patentable over the cited reference, as previously explained, claims 47-49 are patentable as dependent on an allowable base claim. Accordingly, Applicants submit that the rejection of claims 47-49 should also be withdrawn.

In sum, Applicants respectfully submit that Ng does not teach or suggest all the claim limitations found in claims 1-49. Applicants request that the rejection as to claims 1-49 be withdrawn.

2. No Suggestion or Motivation to Modify the Ng Reference

Applicants assert that the USPTO has failed to establish the second criterion for establishing a *prima facie* case of obviousness, insofar that the USPTO has failed to show some teaching, suggestion or motivation, in the single Ng reference or in the knowledge generally available to one of ordinary skill in the art, to modify Ng to produce the claimed invention. “Even where obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.” *In re Kotzab*, 217 F.3d

1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) (citing *B.F. Goodrich Co. v. Aircraft Braking Sys. Corp.*, 72 F.3d 1577, 1582, 37 USPQ2d 1314, 1318 (Fed. Cir. 1996)).

After indicating a §103 rejection, the Office Action should set forth several items, including “the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter” and “an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.” MPEP § 706.02(j). Neither of these crucial items necessary to support the §103 rejection are provided within the Office Action.

Instead, the Office Action states that as to independent claim 1, “[i]t would have been obvious to a person of ordinary skill in the art the time of the invention” that the “whole document” of Ng “would have selected in accordance with ‘offering of a potential reward to a first party in exchange for promotional assistance of the first party, the promotional assistance comprising assistance in a forwarding of a first e-mail to a second party, the first e-mail message comprising a personalized referral for the marketable entity, and a first set of data comprising a first serial number and a first URL link’”, since “such selection would have provided means for ‘computer-assisted electronic commerce (e-commerce) . . . reward programs. . . .’ (see Ng (col. 1, ll. 5-15)).” (italics in Office Action)

In response, Applicants respectfully submit that the Office Action’s quote of certain language from Ng’s field of invention does not suffice as either “the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter”, or “an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.” MPEP §706.02(j). Furthermore, the language “*computer-assisted electronic commerce (e-commerce) . . . reward programs. . . .*’ (see Ng (col. 1, ll. 5-15))” does not satisfy the requirement for a teaching, suggestion, or motivation to modify the reference to produce the Applicants’ claimed invention, nor does it provide “a convincing line of reasoning as to why the artisan would have found the claimed invention to have been

obvious in light of the teachings” of Ng. MPEP §706.02(j), quoting *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). “Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art.” MPEP §2143.01. Further, it stands to reason that the language “*computer-assisted electronic commerce (e-commerce) . . . reward programs . . .*” from Ng (col. 1, ll. 5-15) cannot be utilized to broadly reject claims of inventions in the field of e-commerce and/or reward programs on the basis of obviousness, since it stands to reason that if that were the USPTO’s position, all patents to online merchants who engage in both e-commerce and reward programs would necessarily also be invalid.

Analogous arguments can be made as to independent claim 46. The USPTO claims that “[i]t would have been obvious to a person of ordinary skill in the art the time of the invention” that the “whole document” of Ng “would have selected in accordance with ‘offering a reward to a first party to assist in recommending a second marketable entity substantially similar to the first marketable entity to a second party wherein the recommendation results in a transaction’”, since “such selection would have provided means for ‘*computer-assisted electronic commerce (e-commerce) . . . reward programs. . .*’ (see Ng (col. 1, ll. 5-15)).” (italics in Office Action). Such italicized language does not provide “the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter”, nor “an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.” MPEP 706.02(j). Furthermore, the italicized language does not supply a teaching, suggestion, or motivation to modify Ng to produce the claimed invention, and it also does not present a convincing line of reasoning as to why an artisan would have found the claimed invention to have been obvious in light of Ng.

As to dependent claims 2-45 and claims 47-49, the USPTO takes Official Notice that

“both the concepts and the advantages of the elements and limitations” of those claims “were well known and expected in the art by one of ordinary skill at the time of the invention because such concepts and advantages would have provided means for ‘*computer-assisted electronic commerce (e-commerce) . . . reward programs. . .*’ (see Ng (col. 1, ll. 5-15)).” (italics in Office Action). Claims 2-45 depend from independent claim 1, and claims 47-49 depend from claim 43.

Applicants respectfully traverse the USPTO’s Official Notice as to claims 2-45 and claims 47-49. Applicants demand for evidence, including standard references and prior art references, upon which the USPTO rely to support the taking of said Official Notices. Applicants respectfully request that the data be stated as specifically as possible, pursuant to MPEP §2144.03.

In support of their demand for further proof, the Applicants challenge the USPTO’s Official Notice on the basis of several reasons. Official notice may be taken of (1) a fact of “wide notoriety” (*In re Howard*, 394 F.2d 869, 870, 157 USPQ 615, 616 (CCPA 1968)) or (2) a fact outside the record “which, while not generally notorious, [is] capable of such instant and unquestionable demonstration as to defy dispute.” *In re Ahlert*, 424 F.2d 1088, 1091 (CCPA 1970). Applicants respectfully submit that contrary to the assertions in the Action, the concepts and advantages of the elements and limitations found in claims 2-45 and claims 47-49 were not well known nor were they expected in the art by one of ordinary skill at the time of the invention. As previously discussed, the mere recitation of language taken from Ng’s field of invention of “*computer-assisted electronic commerce (e-commerce) . . . rewards programs . . .*”, is not sufficient to constitute a teaching, suggestion or motivation to modify Ng to produce the claimed invention.

Also, official notices should not be used except in cases where the fact at issue is supported by common knowledge or capable of unquestionable demonstration. *In re Knapp-Monarch Co.*, 296 F.2d 230, 232, 132 USPQ 6, 8 (CCPA 1961); *In re Cofer*, 354 F.2d 664, 668, 148 USPQ 268, 271-272 (CCPA 1966). Furthermore, the USPTO’s position that the concepts

and advantages of claims 2-45 and claims 47-49 would have been obvious as a means of “*computer-assisted electronic commerce (e-commerce) . . . rewards programs . . .*” would mean that all other e-commerce patents are also invalid as their claimed inventions deal with e-commerce and rewards programs.

Official notice cannot be taken of facts normally subject to the possibility of a rational disagreement among reasonable men. *In re Eynde*, 480 F.2d 1364, 1370, 178 USPQ 470, 474 (CCPA 1973); *In re Barr*, 444 F.2d 588, 591 n.5, 170 USPQ 330, 334 n.5 (CCPA 1971). Thus, facts constituting the state of the art are not amenable to the taking of official notices. *In re Eynde*, 480 F.2d at 1370, 178 USPQ at 474. Also, facts officially noticed are not to be the principle evidence supporting an objection. *In re Ahlert*, 424 F.2d 1088, 1092 . Notably, official notice does not free the USPTO from the other requirements for establishing a *prima facie* case of obviousness. The USPTO must still provide evidence to indicate that there has been a suggestion or motivation for modifying a reference. The suggestion must be based on something more than just the existence of the fact so noticed. The prior art must suggest the “desirability” of using the noticed fact to modify a reference. *Lindemann Maschinenfabik GMBH v. American Host and Derrick Co.*, 730 F.2d 1452, 1462, 221 USPQ 481, 448 (Fed. Cir. 1984).

Applicants respectfully submit that the facts of which the USPTO have taken official notice (namely, that the concepts and advantages of the elements and limitations found in claims 2-45 and claims 47-49 would have been obvious to one of ordinary skill in the art at the time of the invention because the concepts and advantages would have been selected as a means of “*computer-assisted electronic commerce (e-commerce) . . . rewards programs . . .*”) are not amenable to the taking of official notice, as these facts are normally subject to the possibility of a rational disagreement among reasonable men and they are facts dealing with the state of the art at the time of the invention. Furthermore, the facts officially noticed by the USPTO as to claims 2-45 and claims 47-49 cannot be the principle evidence supporting an objection, yet the Office

Action indicates no other principle evidence to support its objection as to those claims. Further, the Office Action does not provide any evidence of a suggestion or motivation to modify the Ng reference to produce the claimed invention, nor does it provide prior art to supply any suggestion of the “desirability” of using the noticed facts to modify the Ng reference accordingly.

For these reasons, the Applicants respectfully challenge the taking of the Official Notices as to claims 2-45 and claims 47-49, and further demand evidence for each and every element and limitation found in said claims upon which the USPTO relies to support the taking of said Official Notices.

3. No Reasonable Expectation of Success Established

Applicants further submit that the USPTO failed to establish a reasonable expectation of success, which is the third criterion for establishing a *prima facie* case of obviousness. “The prior art can be modified or combined to reject claims as *prima facie* obvious as long as there is a reasonable expectation of success.” MPEP §2143.02, citing *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). First, as previously explained, there is no suggestion or motivation to modify Ng to produce the claimed invention. Second, the Office Action lacks any mention of a proposed modification of the Ng reference necessary to arrive at the claimed subject matter, and there was no explanation given in the Office Action as to why one of ordinary skill in the art, at the time the invention was made, would have been motivated to make the proposed modification. MPEP §706.02(j). Finally, there is no evidence suggesting that any proposed modification of Ng to produce the claimed invention would have had a reasonable expectation of success at the time the invention was made. MPEP §2143.02.

In summation, given that the USPTO has not met its initial burden of providing a *prima facie* case of obviousness, the Applicants respectfully request that 35 U.S.C. §103(a) rejection be withdrawn as to claims 1-49.

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. If the Examiner believes that a telephone conference would expedite prosecution of this application, the Examiner is encouraged to contact the undersigned at (408) 530-9700.

Respectfully submitted,

HAVERSTOCK & OWENS LLP

Dated: 5-30-03

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CERTIFICATE OF MAILING (37 CFR § 1.8(a))

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Date: 5-30-03 By: Thomas B. Haverstock